

² The Board notes that, following the March 4, 2021 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On January 19, 2021 appellant, then a 65-year-old communications clerical, filed a traumatic injury claim (Form CA-1) alleging that she sustained a dog bite to her right thigh on September 21, 2020 when a dog ran from under a porch and attacked her as she was enumerating for the census while in the performance of duty. She stopped work on September 21, 2020. On the reverse side of the claim form appellant's supervisor, A.P., acknowledged that appellant was injured in the performance of duty and certified that his knowledge of the injury comported with the information provided by appellant.

In a development letter dated January 27, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a development questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

On September 21, 2020 Dr. Rylan Brantl, a Board-certified family medicine specialist, related that appellant was in North Dakota conducting official duties for the census when a dog bit her in the right lateral thigh. He diagnosed a dog bite of the right thigh and indicated that she had three small penetrating wounds from the incident.

OWCP received a medical prescription note dated September 22, 2020 from Dr. Brantl with appellant prescribed a series of rabies vaccines for her dog bite wounds of the right lateral thigh.

A September 23, 2020 note from Lisa Swanson, a certified nurse practitioner, indicated that appellant received an injection for her claimed injury.

In a September 24, 2020 note, Radziwill Jaafar, a nurse practitioner, reported that she administered a rabies vaccine to appellant's right deltoid area.

On September 28, 2020 London Herbert, a nurse practitioner, noted that appellant received a third rabies vaccine dose.

By decision dated March 4, 2021, OWCP accepted that the September 21, 2020 employment incident occurred as alleged. However, it denied the claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted employment incident. OWCP concluded, therefore, that appellant had not met the requirements to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time

³ *Supra* note 1.

limitation of FECA,⁴ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established.⁷ Generally, fact of injury consists of two components that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.⁸ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁹

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹⁰ The opinion of the physician must be based upon a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident.¹¹

ANALYSIS

The Board finds that appellant has met her burden of proof to establish penetrating wounds on her right thigh due to the accepted September 21, 2020 employment incident.

OWCP accepted that the dog bite incident of September 21, 2020 occurred as alleged. On the same date, appellant presented to Dr. Brantl who diagnosed a dog bite of the right lateral thigh sustained while performing her official duties as a federal employee and further noted that she had three penetrating dog bite wounds. In follow-up notes dated September 23, 24, and 28, 2020, she

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁸ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

was treated with a series of rabies vaccines due to her diagnosed condition of dog bite and the noted penetrating wounds to her right thigh.

The record establishes that appellant submitted medical evidence from Dr. Brantl containing a dog bite diagnosis in connection with her claim.¹² OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted even without a medical report.¹³ As the evidence of record establishes diagnosed visible injuries, the Board finds that she has met her burden of proof to establish dog bite wounds causally related to the accepted September 21, 2020 employment incident.¹⁴ Appellant, therefore, has established an injury in the performance of duty. The case will, therefore, be remanded for payment of medical expenses and any attendant disability.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish penetrating wounds on her right thigh.

¹² See *S.A.*, Docket No. 20-1498 (issued March 11, 2021); *A.H.*, Docket No. 20-0730 (issued October 27, 2020); *B.C.*, Docket No. 20-0079 (issued October 16, 2020).

¹³ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011); Chapter 2.805.3(c) (January 2013). See also *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

¹⁴ See *R.H.*, Docket No. 20-1684 (issued August 27, 2021).

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2021 decision of the Office of Workers' Compensation Programs is reversed.

Issued: May 5, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board